

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
[Alexandria](#) Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 04-66-A
)	
ORAL SUER ,)	
)	
Defendant.)	

PLEA AGREEMENT

Paul J. McNulty, United States Attorney for the Eastern District of Virginia, [Robert W. Wiechering](#), Assistant United States Attorney, the defendant, [Oral Suer](#), and the defendant's counsel have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

1. Offense and Maximum Penalties

The defendant agrees to waive indictment and plead to a two count criminal information charging the defendant with Interstate Transportation of Stolen Money and False Statement and Concealment of Facts in Relation to an Employee Retirement Plan in violation of Title [18](#), United States Code, Sections [2314](#) and [1027](#). The maximum penalties for these offenses are a term of ten years imprisonment for count one and five years for count two, a fine of \$250,000 for each count, full restitution, a special assessment, and three years of supervised release. The defendant understands that this supervised release term is in addition to any prison term the defendant may receive and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. Factual Basis for the Plea

The defendant will plead guilty because the defendant is in fact guilty of the charged offense. The defendant admits the facts set forth in the statement of facts filed with this plea agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of facts constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

3. Assistance and Advice of Counsel

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

4. Role of the Court and the Probation Office

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above but that the Court will determine the

defendant's actual sentence in accordance with the Sentencing Guidelines and Policy Statements. The defendant understands that the Court has not yet determined a sentence and that any estimate of the probable sentencing range under the Sentencing Guidelines the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the Probation Office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence. The parties agree that the appropriate Sentencing Guidelines calculation is as follows:

- a. The appropriate Sentencing Guidelines are those in effect in 2001 prior to November 1, 2001;
- b. The base offense level pursuant to 2F1.1(a) is 6;
- c. Pursuant to 2F1.1(b)(I)(J), a 9 level increase is applicable because the amount of loss is more than \$350,000, but less than \$500,000;
- d. Pursuant to 2F1.1(b)(2)(A), a 2 level increase is applicable for more than minimal planning;
- e. Pursuant to 3B1.3 a 2 level increase is applicable for abuse of position of trust;
- f. Should the U. S. Probation Office determine that the defendant has accepted responsibility; then pursuant to 3E1.1, a 3 level decrease is applicable because the defendant has demonstrated acceptance of responsibility for his offenses and timely notified authorities of his intention to enter a plea of guilty;
- g. The parties agree that the defendant does not warrant any increase or decrease for an aggravating or mitigating role.

Accordingly, the parties agree, contingent upon U. S. Probation determining that the defendant has accepted responsibility, that the final adjusted offense level is 16.

The defendant agrees not to seek a downward departure, and the government agrees not to seek an upward departure at sentencing and agrees with, and supports, the defendant's release pending sentencing, his self-surrender to the Federal Bureau of Prisons no earlier than ninety days after sentencing, and his request for a recommendation of incarceration in a minimum security facility.

The parties understand that these agreements on the Guidelines are not binding upon U.S. Probation or the Court.

5. Waiver of Appeal and Review

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the maximum provided in the statute of conviction (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b).

6. Special Assessment

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

7. Payment of Monetary Penalties

The defendant understands and agrees that, pursuant to Title 18, United States Code, Section 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States as provided for in Section 3613. The defendant agrees to pay, prior to sentencing, estimated taxes on transfers from his IRA account, and then to pay the remaining balance in that account in excess of \$100,000 toward, first his restitution obligation to the Defined Benefit Pension Plan for the United Way of the National Capital Area ("The UWNCA Pension Plan") and, second his restitution obligation to the UWNCA. The United States agrees that it will not execute against up to \$100,000 of the IRA account which may be retained by the defendant to provide support to his family, or against his wife's tenancy by the entirety interest in the family home at 4004 Harris Place, Alexandria, Virginia, or against his social security benefits. Furthermore, the defendant agrees to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

8. Restitution for Offense of Conviction

The defendant agrees to the entry of a Restitution Order for the full amount of the victims' losses.

The parties agree that the following victims have suffered the following losses:

UWNCA Pension Plan	\$ 94,278.98
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UWNCA

\$403,000.00

9. Immunity from Further Prosecution in the District

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for any conduct arising from his employment by the UWNCA. This paragraph does not apply to any "crimes of violence" as that term is defined by 18 U.S.C. § 16.

10. Breach of the Plea Agreement and Remedies

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement, including any obligation to seek a downward departure or a reduction in sentence. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and

- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence. [The proceeding established by this paragraph does not apply, however, to the decision of the United States whether to file a motion based on "substantial assistance" as that phrase is used in Rule 35\(b\) of the Federal Rules of Criminal Procedure and Section 5K1.1 of the Sentencing Guidelines and Policy Statements. The defendant agrees that the decision whether to file such a motion rests in the sole discretion of the United States.](#)

11. Nature of the Agreement and Modifications

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

Paul J. McNulty
United States Attorney

By: _____
[Robert W. Wiechering](#)
Assistant United States Attorney

APPROVED:

Name of Approving Supervisor

Date of Approval:

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines and Policy Statements which may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: _____

Oral Suer
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending information. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: _____

Graeme Bush, Esquire
Counsel for the Defendant

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UNITED STATES OF AMERICA)	
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ORAL SUER)	

WAIVER OF INDICTMENT

I, Oral Suer, the above named defendant, accused of Interstate Transportation of Stolen Money and False Statements and Concealment of Facts in Relation to an Employee Retirement Plan in violation of Title 18, United States Code Sections 2314 and 1027, being advised of the nature of the charges, the proposed information, and of my rights, hereby waive in open court prosecution by indictment and consent that the proceeding may be by information rather than by indictment. I further waive any statute of limitations defense to the charged offenses.

Date: _____

Oral Suer
Defendant

Counsel for Defendant

Before: _____
UNITED STATES DISTRICT JUDGE